

Amendment No. 222

Assembly Amendment to Assembly Bill No. 255

(BDR 53-102)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

| ASSEMBLY ACTION | | | | Initial and Date | SENATE ACTION | | | | Initial and Date | |
|-----------------|--------------------------|------|--------------------------|------------------|---------------|--------------|--------------------------|------|--------------------------|-------|
| Adopted | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____ | | Adopted | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____ |
| Concurred In | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ | | Concurred In | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ |
| Receded | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ | | Receded | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

SLP/TMC



Date: 4/17/2011

A.B. No. 255—Revises procedures relating to certain accidents occurring in the course of employment. (BDR 53-102)



ASSEMBLY BILL NO. 255—COMMITTEE
ON COMMERCE AND LABOR(ON BEHALF OF THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE
TO REVIEW THE UNITED STATES DEPARTMENT OF LABOR'S REPORT
ON THE NEVADA OCCUPATIONAL SAFETY AND HEALTH PROGRAM)

MARCH 10, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Revises procedures relating to certain accidents occurring in the
course of employment. (BDR 53-102)FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to occupational safety; requiring the Division of Industrial Relations of the Department of Business and Industry to provide certain persons with specified information and notifications relating to an investigation of an accident which results in the death or under certain circumstances, the injury of an employee; requiring the Division to use its best efforts to interview certain persons during an investigation of an accident which results in the death of an employee; ~~requiring the Division to allow certain persons to participate in certain meetings relating to an accident which results in the death of an employee;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Administrator of the Division of Industrial Relations of the Department of Business and Industry to inspect and investigate places of employment and conditions, equipment and structures therein. (NRS 618.325) Existing law also requires the Division to investigate certain accidents that result in the death or injury of employees. (NRS 618.378) **Section 1** of this bill requires the Division, after an accident which results in the death of an employee or ~~injury of an employee,~~ the hospitalization of three or more employees, to provide to the injured employees, the immediate families of the injured or deceased employees and the representatives of the injured or deceased employees a written description of their rights regarding an investigation of the accident. **Section 1** also requires the Division to provide such persons with notice of certain events related to an investigation of the accident or proceedings concerning the accident.

With regard to an accident which results in the death of an employee, existing law requires the Division and the Occupational Safety and Health Review Board to provide specified information and notifications to, and under certain circumstances to enter into discussions with, the immediate family of the deceased employee after a citation is issued regarding the accident. (NRS 618.480, 618.605) **Section 3** of this bill requires the Division to

use its best efforts to interview the immediate family of the deceased employee during an investigation of the fatal accident to obtain information relevant to the investigation. ~~{Section 3 also requires the Division to allow the immediate family of the deceased employee to participate in certain meetings related to the accident.}~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 618 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If an accident occurs in the course of employment which is fatal to ~~for~~ ~~injuries~~ one or more employees ~~or~~ or which results in the hospitalization of three or more injured employees, the Division shall, as soon as practicable:

(a) Provide to each injured employee, the immediate family of each deceased or injured employee and each representative of each deceased or injured employee a written description of the rights of such persons with regard to an investigation of the accident; and

(b) Notify each injured employee, the immediate family of each deceased or injured employee and each representative of each deceased or injured employee of:

(1) The commencement by the Division of any investigation of the accident;

(2) The result of any informal conference between the employer and the Division;

(3) The finalization of any agreement between an employer and the Division which formally settles an issue related to the accident;

~~[(3)]~~ *(4) The issuance of any citation under the provisions of this chapter related to the accident;*

~~[(4)]~~ *(5) The receipt by the Division of notice from an employer that the employer wishes to contest or appeal any action or decision of the Division which relates to the accident; and*

~~[(5)]~~ *(6) The completion by the Division and, if applicable, the Board of any investigation of the accident and any proceeding related to the accident.*

2. As used in this section, "representative of each deceased or injured employee" means:

(a) A person previously identified to the Division as an authorized representative of the employee bargaining unit of a labor organization which has a collective bargaining relationship with the employer of the employee and represents the employee.

(b) An attorney acting on behalf of the employee.

(c) A person designated by a court to act as the official representative for the employee or the estate of the employee.

Sec. 2. NRS 618.315 is hereby amended to read as follows:

618.315 1. The Division has authority over working conditions in all places of employment except as limited by subsection 2.

2. The authority of the Division does not extend to working conditions which:

(a) Exist in household domestic service;

(b) Exist in motor vehicles operating on public highways of this State; or

(c) Are regulated pursuant to the Federal Mine Safety and Health Act of 1977 ,

~~30 U.S.C. §§ 801 et seq. ,~~ ~~the Federal Safety~~ ~~Appliances~~ Appliance Act

~~[(45), 49 U.S.C. §§ 20301 et seq.,]~~ or the Federal Railroad Safety Act of 1970 ~~[(45), 49 U.S.C. §§ 4211 20101 et seq.]~~, *and any amendments thereto.*

3. The Division may:

(a) Declare and prescribe which safety devices, safeguards or other means of protection are well adapted to render employees safe as required by lawful order, state standards or regulations or federal standards, as adopted by the Division.

(b) Fix and adopt such reasonable standards and prescribe, modify and enforce such reasonable orders for the adoption, installation, use, maintenance and operation of safety devices, safeguards and other means or methods of protection, which must be as nearly uniform as practicable, as may be necessary to carry out all laws and lawful orders relative to the protection of the lives, safety and health of employees.

(c) Adopt such reasonable standards for the construction, repair and maintenance of places of employment as render those places safe and healthful.

(d) Require the performance of any other act which the protection of the lives, safety and health in places of employment reasonably demands.

(e) ~~Provide~~ *Except as otherwise provided in NRS 618.480, provide* the method and frequency of making investigations, examinations and inspections.

(f) Prepare, provide and regulate forms of notices, publications and blank forms deemed proper and advisable to carry out the provisions of this chapter, and to charge to employers the printing costs for those publications.

(g) Furnish blank forms upon request.

(h) Provide for adequate notice to each employer or employee of his or her right to administrative review of any action or decision of the Division as set forth in NRS 618.475 and 618.605 and to judicial review.

(i) Consult with the Health Division of the Department of Health and Human Services with respect to occupational health matters in chapter 617 of NRS.

(j) Appoint and fix the compensation of advisers who shall assist the Division in establishing standards of safety and health. The Division may adopt and incorporate in its general orders such safety and health recommendations as it may receive from advisers.

Sec. 3. NRS 618.480 is hereby amended to read as follows:

618.480 1. ~~[(If, after)]~~ *During* an investigation of an accident occurring in the course of employment which is fatal to one or more employees, *the Division shall use its best efforts to interview the immediate family of each deceased employee to obtain any information relevant to the investigation, including, without limitation, information which the deceased employee shared with the immediate family.*

~~2. [Except as otherwise provided in this subsection, the Division shall allow the immediate family of each deceased employee to participate in any meeting relating to the accident. This subsection does not apply to a meeting if:~~

~~(a) The meeting relates to the investigation of the accident and occurs before the investigation is completed by the Division; or~~

~~(b) Each person who participates in the meeting, in any manner, is an employee of the Division.~~

~~3.]~~ *If, after the investigation of the accident,* the Division issues a citation under the provisions of this chapter, the Division shall offer to enter into a discussion with the immediate family of each deceased employee within a reasonable time after the Division issues the citation.

~~[(2)]~~ ~~[(4)]~~ *3.* ~~During the discussion~~ *described in subsection [(2)] 2.,* the Division shall provide each family with:

(a) Information regarding the citation and abatement process;

1 (b) Information regarding the means by which the family may obtain a copy of
2 the final incident report and abatement decision of the Division; and

3 (c) Any other information that the Division deems relevant and necessary to
4 inform the family of the outcome of the investigation by the Division.

5 *Sec. 4. This act becomes effective on January 1, 2012.*